

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

**PLAINTIFF ADREA, LLC'S REPLY IN SUPPORT OF MOTION TO COMPEL
DISCOVERY OF FUTURE MODELS OF ACCUSED PRODUCTS**

Amazon's opposition concedes the key facts underlying Adrea's motion to compel.

[REDACTED]

Amazon's

conduct runs counter to its discovery obligations.

[REDACTED]

This is nothing more than a

distraction. The real question before the Court is simply whether Adrea is entitled to the

requested discovery — [REDACTED]

[REDACTED]

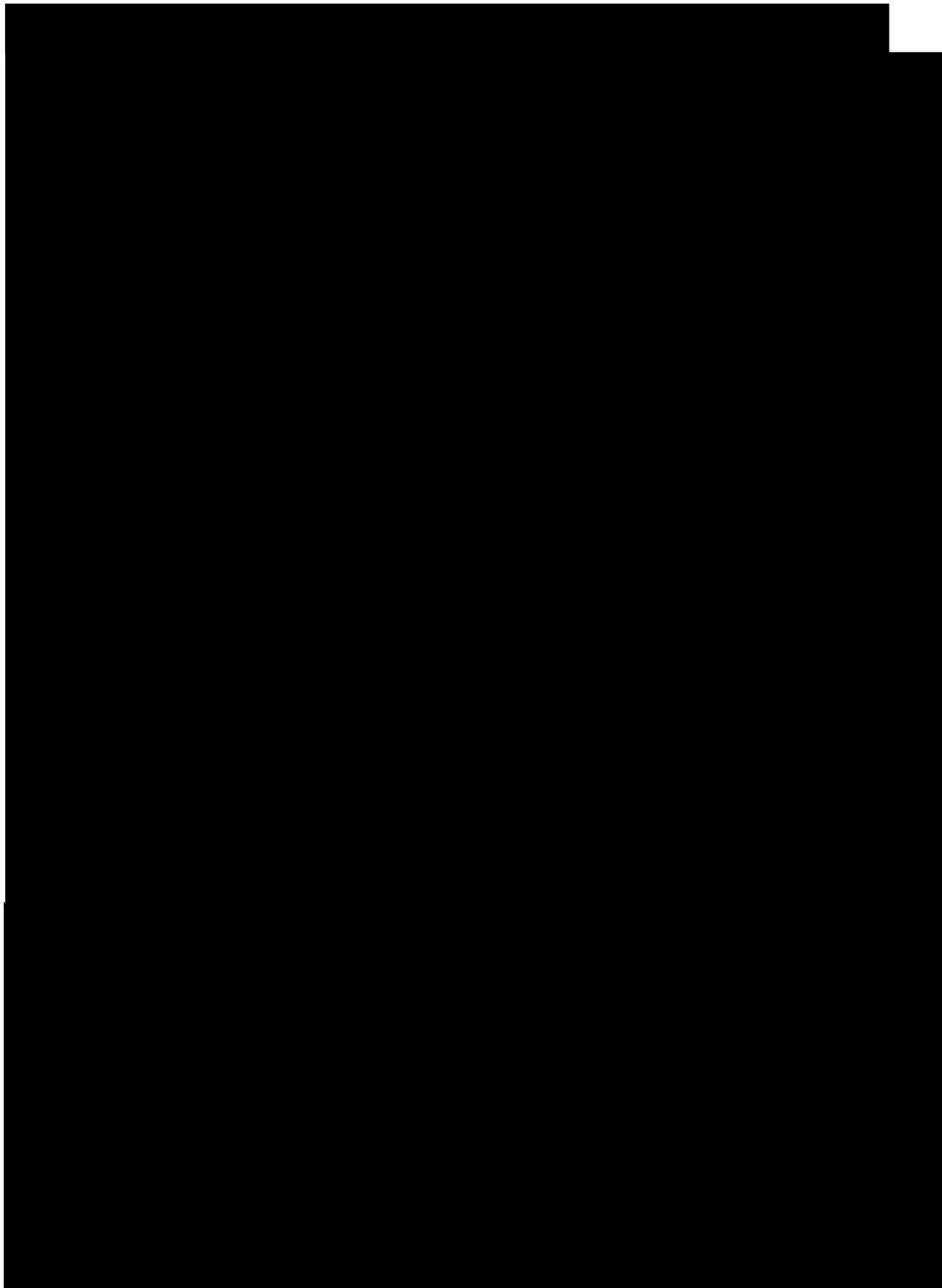
With respect to Adrea's request for further discovery on Amazon's document collection and review procedures, Amazon's opposition also does little to address the key issue: that Amazon has never provided clarity on which keywords it used to search which documents, and when. For that reason, Adrea requests that the Court compel Amazon to provide testimony fully clarifying this issue.

ARGUMENT

I. Adrea Is Entitled to the Requested Document Discovery

[REDACTED]

[REDACTED]



II. The Burden on Amazon to Produce Additional Documents Would Be Minimal

Amazon's contention that the additional document discovery would be burdensome (Opp'n at 11-12) is contradicted by Amazon's own statements of fact. In reality, the burden resulting from a supplemental production would be minimal.

First, with respect to the redacted documents, all Amazon needs to do is remove the redactions and produce the documents. This could be accomplished with, essentially, the push of

a button. To the extent any further review is necessary, Amazon has repeatedly insisted that the number of documents at issue is minimal. [REDACTED]

Second, with respect to the additional keyword searches, Adrea is not asking for Amazon to gather more documents. It is simply asking Amazon to run the keywords against the documents it already has. [REDACTED]

[REDACTED] Again, Amazon could run the keyword searches and produce these documents with little more than the push of a button. In any event, Amazon's complaints about burden ring hollow because Amazon brought any burden upon itself. Had Amazon complied with Adrea's document requests from the start, Amazon could have produced the materials at issue in the normal course of discovery.

III. Amazon's Redactions Were Improper Regardless of Adrea's Entitlement to Information About Future Products

[REDACTED] Amazon should be compelled to remove the redactions. Moreover, Amazon must remove the redactions because they are also improper regardless of the relevance of the redacted material. Courts of this District have held that unilateral redaction of purportedly "irrelevant" or secret information from otherwise responsive documents is improper — particularly where, as here, a protective order is in place. *See Medtronic AVE, Inc. v. Advanced Cardiovascular Sys., Inc.*, 2004 U.S. Dist. LEXIS 670, at *4-10 (D. Del. Jan. 13, 2004) (denying motion for order permitting redaction of purported trade secrets where movant failed to show "particularized injury" would result from disclosure); *Dow Chem. Can., Inc. v. HRD Corp.*, 2009 U.S. Dist. LEXIS 108794, at *2-4 (D. Del. Aug. 27, 2009) (noting that under *Medtronic*, party would not be permitted to redact material it deemed "irrelevant").

Amazon argues that Adrea "cannot establish its entitlement" to remove the redactions.

This reverses the burden: it is Amazon that should have moved for a protective order *permitting* the redactions in the first place. *Medtronic*, 2004 U.S. Dist. LEXIS 670 at *5-6 (citing Fed. R. Civ. P. 26(c)). Then, Amazon could have been required to submit the material *in camera* to confirm that it was protectable. *Id.* at *5. Amazon did not do this, nor did it even provide a log of its redactions. Instead, Amazon asks Adrea and the Court to accept on faith that the redactions were justified. That is unacceptable.

IV. Amazon Has Never Clarified the Extent of Its Keyword Searches

Amazon's lengthy background discussion (Opp'n at 6-10) is a distraction from the key issue with respect to Ms. Radliff's deposition. The issue is that Adrea still does not have clarity on which search terms were run on which documents, and when. Amazon's representations thus far give Adrea no confidence that it has received the complete picture. For instance, on December 30, 2010, Amazon notified Adrea of its use of search terms on certain custodians for the first time. (Ahn Decl. (D.I. 194) Ex. 13, at 1.) A week later, Amazon *backtracked* by stating that keywords had *not* been used for at least *fourteen* of the custodians listed in that letter. (Ahn Decl. Ex. 15, at 1.) Amazon's reversal raises a number of questions, among them: Why did Amazon initially state that keywords had been used on those custodians? Why did Amazon supply a list of keywords that had not been run on those custodians? [REDACTED]

[REDACTED]
[REDACTED]

[REDACTED] Adrea needs testimony on these issues. While it appears that, based on Amazon's representations, Ms. Radliff may not be the person to provide that testimony, Adrea requests that the Court compel Amazon to provide a declaration setting forth all of the keywords applied to each custodian's documents, which documents, and when.

CONCLUSION

For the reasons set forth above, Amazon should not be permitted to continue to conceal its infringement. Adrea accordingly requests that the Court enter an order granting its motion to compel.

Dated: August 1, 2011
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CERTIFICATE OF SERVICE

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